

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Dany Sylvain

Serial No. 10/824,039

Filed: 04/14/2004

Examiner: Sonia L. Gay

Art Unit: 2614

For: **PERSONAL COMMUNICATION DEVICE HAVING MULTIPLE USER IDs**

Mail Stop Appeal Brief – Patents

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

Sir:

A **REPLY BRIEF** is filed herewith in response to the Examiner's Answer mailed March 7, 2011. If any fees are required in association with this Reply Brief, the Director is hereby authorized to charge them to Deposit Account 14-1315 and consider this a petition therefor.

REPLY BRIEF

A. Introduction

In response to the Examiner's Answer mailed March 7, 2011, the Appellant provides the following remarks. The Patent Office has not established a *prima facie* case of obviousness of the claimed invention. More specifically, the Patent Office has not shown where the cited references, either alone or in combination, disclose or suggest providing a plurality of communication clients associated with unique IDs, where each of the unique IDs are uniquely associated with distinct service nodes. As such, the Appellant requests that the Board reverse the Examiner and instruct the Examiner to allow the claims.

B. Rejections

Claims 1-3, 7, 8, 10, 19-24, 28, 29, 31, and 40-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,454,206 to *Phillips et al.* (hereinafter "*Phillips*") in view of U.S. Patent No. 6,801,528 to *Nassar* (hereinafter "*Nassar*"). Claims 4-6, 11-18, 25-27, and 32-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Phillips* in view of *Nassar* and in further view of U.S. Patent Application Publication No. 2002/0128036 to *Yach et al.* (hereinafter "*Yach*"). Finally, claims 9 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Phillips* in view of *Nassar* and in further view of U.S. Patent Application Publication No. 2004/0122934 to *Westman et al.* (hereinafter "*Westman*").

C. Arguments

Claims 1-3, 7, 8, 10, 19-24, 28, 29, 31, and 40-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Phillips* in view of *Nassar*. The Appellant respectfully traverses the rejection. The cited reference teaches an identifier associated with a **service provider**. In contrast, the pending claims recite a unique identifier associated with a **service node**, which is different from a service provider.

Prior to addressing the rejection, the Appellant provides herewith a brief summary of one embodiment of the present invention, where a personal communication device (PCD) that supports multiple packet-based communication identifications (IDs) is provided. Accordingly, communications using any of the packet-based communication IDs associated with the PCD can be established with the PCD. In one embodiment, the PCD may also be capable of

communicating using cellular techniques. When the PCD is capable of communicating using cellular techniques, the PCD may have one or more cellular-based IDs, which may be managed in cooperation with the packet-based communication IDs used for packet-based communications. In one embodiment, each of the IDs is uniquely associated with distinct service nodes. None of the cited references disclose or suggest this feature. Moreover, the Patent Office has agreed that *Phillips* does not disclose this feature.¹

Nassar generally relates to network address translation (NAT) for packet routing.² A NAT rule translates an address identifying a subscriber and associated with a first service provider into an address identifying a subscriber that is associated with a second service provider for a particular application.³ According to *Nassar*, a combination of a subscriber's address and application identifier, which identifies a desired application, is used by the NAT rule to translate the subscriber's address into an address associated with a service provider that has been contracted to support the particular application associated with the application identifier.⁴ Thus, a new address is assigned based on an address associated with a service provider that supports a particular application. However, no mention is made regarding uniquely associating the addresses with distinct service nodes.

When rejecting a claim under 35 U.S.C. § 103, the Patent Office must either show that the prior art references teach or suggest all limitations of the claim or explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.⁵ The gap between the prior art and the claimed invention may not be "so great as to render the [claim] non-obvious to one reasonably skilled in the art."⁶ Here, the Patent Office has failed to show where each and every limitation of the claims is taught or suggested by the prior art. Further, for those limitations of the claims that are not taught or suggested by the prior art, the Patent Office has failed to explain why those limitations would have been obvious to one of ordinary skill in the art.

More specifically, claim 1 recites a personal communication device comprising, among other features, a control system adapted to provide a plurality of packet communication clients

¹ See Final Office Action mailed July 20, 2010, page 3 and Examiner's Answer mailed March 7, 2011, page 11.

² See *Nassar*, col. 1, ll. 10-11.

³ See *Nassar*, col. 2, ll. 10-15.

⁴ See *Nassar*, col. 2, ll. 27-34 and col. 6, ll. 61-62.

⁵ *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418, 82 U.S.P.Q.2d (BNA) 1385, 1396 (2007).

⁶ *Dann v. Johnston*, 425 U.S. 219, 230, 189 U.S.P.Q. (BNA) 257, 261 (1976).

associated with unique IDs, where “each of the unique IDs [are] uniquely associated with distinct service nodes.” Claim 22 includes similar features. The Appellant submits that neither reference, either alone or in combination, discloses or suggests providing a plurality of communication clients associated with unique IDs, where each of the unique IDs are uniquely associated with distinct service nodes. As correctly pointed out by the Patent Office, *Phillips* does not disclose this feature.⁷

Nonetheless, the Patent Office maintains the rejection by asserting that *Nassar* discloses this feature in Figures 1, 6, 7A, and 7B, elements 120, 125, 180, 190, 601b and 605; and in the Abstract, column 2, lines 11-41, column 3, lines 44 – column 4, line 7 column 4, line 60 – column 5, line 10, column 6, line 13 – column 8, line 47.⁸ The Appellant respectfully disagrees. As mentioned above, *Nassar* generally relates to NAT for packet routing. With regards to the cited portions, *Nassar* discloses an IP packet 500a having an IP address 601a associated with an IP Host A-1 and an application identifier 603.⁹ *Nassar* also discloses translating the IP address 601a to a new IP address 601b associated with a Host B.¹⁰ According to *Nassar*, a NAT matching rule 610 translates the IP address 601a to the IP address 601b that is assigned to a service provider that provides the application identified by the application identifier.¹¹ Thus, at the very most, *Nassar* discloses providing a new address that is assigned to a service provider that provides a requested service. However, the Appellant submits that a service provider is not equivalent to a service node. More specifically, a service node is a switching point that comprises a point of end user access to a network and network services. In contrast, a service provider is an organization that provides a communications service, a storage service, a processing service, or any combination of the three. *Nassar* discloses a service provider that is entirely consistent with this definition. In particular, *Nassar*, gives as an example, a scenario where a medical professional needs to register with multiple service providers for various services, such as web and email applications in one instance, a VPN or encryption application in another instance, and real-time communication applications in another instance.¹² However, no mention is made regarding distinct service nodes nor providing a plurality of communication

⁷ See Examiner’s Answer mailed March 7, 2011, page 11.

⁸ See Final Office Action mailed July 20, 2010, page 3 and Examiner’s Answer mailed March 24, 2011, page 11.

⁹ See *Nassar*, col. 7, ll. 43-52.

¹⁰ See *Nassar*, col. 7, ll. 43-45.

¹¹ See *Nassar*, col. 7, ll. 43-47.

¹² See *Nassar*, col. 1, l. 65 – col. 2, l. 2.

clients associated with unique IDs, where each of the unique IDs are uniquely associated with distinct service nodes.

In the Final Office Action, the Patent Office responds to this line of reasoning by indicating that the language of each of the unique IDs being uniquely associated with distinct service nodes is being interpreted “to suggest that there can be an indirect relationship between the ‘service nodes’ and the ‘unique IDs.’”¹³ The Appellant submits that the Patent Office is not interpreting the claims in a manner that is consistent with the Specification. According to Chapter 2111 of the M.P.E.P., “the pending claims must be ‘given their broadest reasonable interpretation consistent with the specification.’” Chapter 2111 goes on to state that the PTO “determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art’”¹⁴ and that “the rules of the PTO require that application claims must “conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description”.¹⁵

The Appellant submits that the interpretation of the feature a plurality of packet communication clients associated with unique IDs, where “each of the unique IDs [are] uniquely associated with distinct service nodes” as “an indirect relationship between the ‘service nodes’ and the ‘unique IDs’” as it relates to the claims is completely inconsistent with the Specification. In particular, paragraph [0019] of the originally filed application states, in part:

In operation, each packet-based communication ID must be registered with a service node 22 in association with the PCD 14. As illustrated, different personal communication IDs for a given PCD 14 may be registered with different service nodes 22. In this example, the packet communication ID USER_A@HOME.NET is registered with service node 22(A) and the packet-based communication IDS USER_A@BUSINESS.COM is registered with service node 22(B). Once registered, session requests from remote communication devices intended for the PCD 14 will be routed to the corresponding service node 22, which will function to assist in the establishment of a session with the PCD 14 using the packet communication ID.

¹³ See Final Office Action mailed July 20, 2010, page 10.

¹⁴ *In re Am. Acad. of Sci. Tech. Cir.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004).

¹⁵ 37 CFR 1.75(d)(1).

Thus, contrary to what is asserted by the Patent Office, the Specification indicates that there is a direct relationship between the unique ID and distinct service nodes. Specifically, unique communication IDs are directly registered with the distinct service nodes 22(A) and 22(B). In contrast, Figure 1 of *Nassar* discloses that a subscriber 100 can connect to additional service providers 180 and 190 via additional routers 120 and 125 during a packet session.¹⁶ As detailed above, a new address associated with the additional service provider is assigned based on a particular application. The routers 120 and 125 are devices that forward packets based on information in a header of the packet.¹⁷ According to *Nassar*, forwarding a packet requires the router to choose the address and relevant interface of the next-hop router or the destination host.¹⁸ Again, according to *Nassar*, forwarding the packet depends upon a routing table, where the routing table dynamically reflects a current topology of an Internet system.¹⁹ However, *Nassar* does not disclose that a unique ID is uniquely associated with a router, or, to interpret the claims in light of the Specification, *Nassar* does not disclose that a unique ID is uniquely registered with a router.

In the Examiner's Answer, the Patent Office responds to this line of reasoning by stating that the term "associated" with can encompass two degrees of separation including an indirect relationship where, according to the Patent Office, *Nassar* discloses "a unique ID [is] registered to a service provider which is reached through a service node distinctly and uniquely connected to the service provider, wherein communicating with a service provider requires using a unique ID which routes to the distinct service node as [a] gateway to the service provider."²⁰ The Appellant respectfully disagrees. Specifically, the Patent Office is ignoring all the features recited in the claims in maintaining the rejection. In particular, the claims recite that "each of the unique IDs **uniquely** associated with distinct service nodes" (emphasis added). The Appellant submits that the Patent Office is ignoring the term "uniquely" in maintaining the rejection. As is well-known, the common dictionary definition of the term "unique" means "being the only one of a particular type."²¹ The Appellant submits that when using the dictionary definition of the term "unique," the claim would have to mean that the ID is only associated with the service node

¹⁶ See *Nassar*, Figure 1, and col. 5, ll. 5-9.

¹⁷ See *Nassar*, col. 4, ll. 11-14.

¹⁸ See *Nassar*, col. 4, ll. 19-21.

¹⁹ See *Nassar*, col. 4, ll. 21-25.

²⁰ Examiner's Answer mailed March 7, 2011, page 12.

²¹ Dictionary.com, "uniquely," in *Dictionary.com Unabridged*, <http://dictionary.reference.com/browse/uniquely> (last visited April 22, 2011).

and nothing else, which is in contrast to what the Patent Office alleges *Nassar* discloses. As acknowledged by the Patent Office, the ID in *Nassar* is associated with the service provider, which is the opposite of what is recited in the pending claims. In particular, as detailed above, a service provider is not a service node. As such, claims 1 and 22 are patentable over the cited references. Likewise, claims 2, 3, 7, 8, 10, 19-21, 23, 24, 28, 29, 31, and 40-42, which depend from either claim 1 or claim 22, are patentable for at least the same reasons along with the novel features recited therein.

Claims 4-6, 11-18, 25-27, and 32-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Phillips* in view of *Nassar* and in further view of *Yach*. The Appellant respectfully traverses the rejection. As discussed above, claims 1 and 22, the base claims from which claims 4-6, 11-18, 25-27, and 32-39 variously depend, are patentable over *Phillips* and *Nassar*. In addition, *Yach* does not overcome the deficiencies of both *Phillips* and *Nassar*. Accordingly, claims 4-6, 11-18, 25-27, and 32-39 are patentable over the cited references.

Claims 9 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Phillips* in view of *Nassar* and in further view of *Westman*. The Appellant respectfully traverses the rejection. As detailed above, claims 1 and 22, the base claims from which claims 9 and 30 respectively depend, are patentable over *Phillips* and *Nassar*. *Westman* does not cure the deficiencies of *Phillips* and *Nassar*. As such, claims 9 and 30 are patentable over the cited references.

D. Conclusion

As set forth above, the cited references do not disclose or suggest providing a plurality of communication clients associated with unique IDs where each of the unique IDs are uniquely associated with distinct service nodes. As such, the Appellant requests that the Board reverse the Examiner and instruct the Examiner to allow the claims.

Respectfully submitted,

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Date: April 28, 2011
Attorney Docket: 7000-338

Appendix A

Dictionary

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unique

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u·nique

(yoo-neek) ? [Show IPA](#)**-adjective**

- existing as the only one or as the sole example; single; solitary in type or characteristics: *a unique copy of an ancient manuscript.*
- having no like or equal; unparalleled; incomparable: *Bach was unique in his handling of counterpoint.*
- limited in occurrence to a given class, situation, or area: *a species unique to Australia.*
- limited to a single outcome or result; without alternative possibilities: *Certain types of problems have unique solutions.*
- not typical; unusual: *She has a very unique smile.*

-noun

- the embodiment of unique characteristics; the only specimen of a given kind: *The unique is also the improbable.*

Origin:

1595-1605; < French < Latin *unicus*, equivalent to *un* (*us*) one + *-icus* *-ic*

-Related forms

u·nique·ly, *adverb*
 u·nique·ness, *noun*
 non-u·nique, *adjective*
 non-u·nique·ly, *adverb*
 non-u·nique·ness, *noun*
 un·u·nique, *adjective*
 un·u·nique·ly, *adverb*
 un·u·nique·ness, *noun*

-Usage note

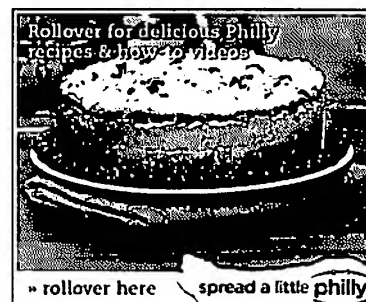
Many authors of usage guides, editors, teachers, and others feel strongly that such "absolute" words as *complete*, *equal*, *perfect*, and especially *unique* cannot be compared because of their "meaning": a word that denotes an absolute condition cannot be described as denoting more or less than that absolute condition. However, all such words have undergone semantic development and are used in a number of senses, some of which can be compared by words like *more*, *very*, *most*, *absolutely*, *somewhat*, and *totally* and some of which cannot.

The earliest meanings of *unique* when it entered English around the beginning of the 17th century were "single, sole" and "having no equal." By the mid-19th century *unique* had developed a wider meaning, "not typical, unusual," and it is in this wider sense that it is compared: *The foliage on the late-blooming plants is more unique than that on the earlier varieties.* The comparison of so-called absolutes in senses that are not absolute is standard in all varieties of speech and writing.

See also [a1](#), [complete](#), [perfect](#).

homonym
 unctuous

pluvial
 antecedent



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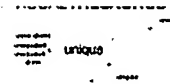
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World English Dictionary

unique (juˈni:k) ?

— *adj*

1. being the only one of a particular type; single; sole
2. without equal or like; unparalleled
3. *informal* very remarkable or unusual
4. *maths*
 - a. leading to only one result: *the sum of two integers is unique*
 - b. having precisely one value: *the unique positive square root of 4 is 2*

[C17: via French from Latin *unicus* unparalleled, from *unus* one]

usage *Unique* is normally taken to describe an absolute state, i.e. one that cannot be qualified. Thus something is either *unique* or *not unique*; it cannot be *rather unique* or *very unique*. However, *unique* is sometimes used informally to mean very remarkable or unusual and this makes it possible to use comparatives or intensifiers with it, although many people object to this use

u'niquely

— *adv*

u'niqueness

— *n*

Collins English Dictionary - Complete & Unabridged 10th Edition
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Publishers 1998, 2000, 2003, 2005, 2006, 2007, 2009
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Word Origin & History

unique

c.1600, "single, solitary," from Fr. *unique*, from L. *unicus* "single, sole," from *unus* "one" (see *one*). Meaning "forming the only one of its kind" is attested from 1610s; erroneous sense of "remarkable, uncommon" is attested from mid-19c.

Online Etymology Dictionary. © 2010 Douglas Harper
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Computing Dictionary

UNIQUE definition

language

A portable job control language.

[The UNIQUE Command Language - Portable Job Control", I.A. Newman, Proc DATAFAIR 73, 1973, pp. 353-357].
(1994-11-22)

The Free On-line Dictionary of Computing © Denis Howe 2010 <http://foldoc.org>
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UNIQUE

"Scientific method is the way to truth, but it affords, ..."
"A doctor, like anyone else who has to deal with human b..."
"Murder is unique in that it abolishes the party it inju..."
"Adolescents swing from euphoric self-confidence and a k..."
"In general a thing is romantic when, as Aristotle would..."

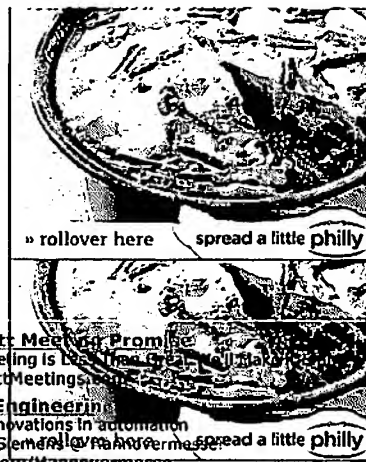
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